IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

WEDNESDAY, THE 13TH JUNE 2007 / 23RD JYAISHTA 1929

WP(C).No. 13512 of 2006(H)

PETITIONER:

M.ABDUL RAHIMAN, S/O.MOHAMMED,
SUHARA MANZIL, PERIYA ROAD, PANAYAL P.O.,
BAKEL VIA, KASARAGODE DISTRICT.

BY ADV. SRI.T.G.RAJENDRAN

RESPONDENTS:

---

1. THE JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES, (GENERAL), KASARAGODE.

2. THE SALE OFFICER, HOUSING PRIMARY CO-OPERATIVE AGRICULTURAL RURAL DEVELOPMENT BANK, KANHANGAD POST, KASARAGODE DISTRICT.

3. THE HOUSING PRIMARY CO-OPERATIVE AGRICULTURAL AND RURAL DEVELOPMENT BANK, KANHANGAD POST, KASARAGODE DISTRICT.

R1 & R2 BY GOVT. PLEADER SRI. P.N. SANTHOSH.
R3 BY ADV. SRI.T.R.HARIKUMAR

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 13/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.M.JOSEPH, J.

- -

WP.(C) No.13512 of 2006

- -

Dated this the 13th day of June, 2007

JUDGMENT

Petitioner has approached this court seeking to quash Ext.P5 order of the Bank and to direct the bank to permit the petitioner to avail one time settlement scheme. The further prayer is to keep in abeyance all proceedings. There was an earlier round of litigation resulting in Ext.P3 order. As per the same, it is directed as follows:

> "Heard. Sri. M.Sasindran, learned counsel for the petitioner and Sri.T.R.Ramachandran Nair, learned counsel for the Bank in I.A. No.2556/06. The I.A will stand allowed on the following terms:
>
> 1. The petitioner shall hand over the original of Ext.P4 -Demand Draft to the 3rd respondent Bank within three days from today and the Bank upon realisation of the proceedings the D.D amount will be kept under suspense account.
>
> 2. The petitioner shall pay the balance amount of Rs.5,05,000/- (Rupees Five Lakhs and five thousand only) by 15th May, 2006. Under no circumstances further enlargement of time will be granted.
>
> After reconveyance of the property to the petitioner

> on the basis of the order of this court, the Bank will consider claims if any raised by the petitioner for refund of any amounts as allegedly paid in excess."

There is no dispute that the petitioner could not comply with the said order. Thereafter apparently the Bank issued Ext.P5 directing that if the amount mentioned therein is not paid before 15.5.2006 further proceedings will be taken. It is not in dispute that the respondent Bank had bid the property. It is submitted by the learned counsel for the Bank that the sale stood confirmed on 17.11.2004. In such circumstances the petitioner has approached this court praying to set aside Ext.P5.

2. I heard learned counsel for the petitioner and the Bank. Learned counsel for the Bank submits that even now the Bank is prepared to reconvey the property to the petitioner upon the petitioner paying the amount remaining to be paid with 9.25% interest per annum. He also submits that if this court is inclined to grant such relief, petitioner has to bear the expenses towards stamp duty and registration charge also. He further submits that for the amount deposited by the

petitioner, the petitioner will be given 9.25% interest. In other words, after giving credit to the interest payable by the Bank on the amount deposited by the petitioner, the petitioner would have to pay interest on an amount of Rs.5,05,000/- from the date of sale till the date of payment.

3. Learned counsel for the petitioner submits that the petitioner is prepared to pay the said amount and he submits that the property may be ordered to be reconveyed on payment of the amount.

4. In view of the stand taken by the Bank, even though I note in Ext.P3 that under no circumstances further enlargement of time will be allowed is a condition incorporated, I am inclined to direct reconveyance on the above conditions as submitted by the learned counsel for the Bank. In such circumstances, the writ petition is disposed of as follows:

The Bank will serve a statement on the petitioner showing the amount payable by the petitioner as aforesaid. Upon receipt of the statement if the petitioner deposits the said amount within a period of two months from the date of receipt of the statement, the Bank will

reconvey the property to the petitioner.

(K.M. JOSEPH, JUDGE)

sb